



# Legal Aspects of Copyright on Book Photocopying Business Activities

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**Abstract:** Photocopied books are sold at much cheaper prices than original books. These pirated books are very popular with college students because of their affordable prices without thinking about the authenticity of the book. Books are objects of Copyright which are protected by law, therefore the author of the book as the creator and/or holder of Copyright for the work of the book has exclusive rights, namely the right to monopolize his creation in an effort to protect his creation from other parties, such as the right to publish and multiplying his creations or giving permission to other parties to gain economic benefits. Even though copyright is an individual right, there are certain limits regarding public authority to provide access to information for society at large. This article examines how copyright is limited in duplicating books for educational purposes and how UUHC enforces book duplication without the author's permission. The method used to study this problem is the normative research method. Based on the results of the study, it can be concluded. Copyright restrictions can be made as long as they do not conflict with morals, religion, public order, decency, national defense and security. The Copyright Law contains restrictions on Copyright related to education as stated in Article 44 jo. Article 86 wherein stating the specified source, or the obligation of the copyright holder concerned to give permission to another party to translate and/or reproduce the work or can also appoint another party to carry out the translation/reproduction of the work. This is done for creations in the fields of education and research. Law enforcement regarding Copyright violations can be resolved through civil dispute resolution and criminal prosecution.

**Keywords:** *Copyright; Doubling; Law Enforcement.*

## 1. Introduction

That the number of universities in Indonesia in 2022 based on data from the Central Statistics Agency in 2022 has reached 4,004 universities. This number can reach twice the number of universities in China. Meanwhile, the population in China reaches five times the population of Indonesia. With this number, universities in Indonesia have a total of 326,554 lecturers and 9,320,410 students. In their activities, lecturers and students need reading materials, one of which is books to support educational facilities.

The fact in the field is that book prices are relatively expensive for most students and lecturers. This problem is solved by purchasing books that are duplicated through a photocopying service. Duplication is carried out for both part of the book's contents and the entire contents of the book. Book photocopying services then become a solution to the problem of high book prices. There are even lecturers who sell photocopied books to their students and use them for commercial purposes. The need to obtain books at low prices is captured by photocopying businesses which have mushroomed around campus. This company provides photocopying of books in small and large quantities. That students' need for photocopying services is relatively high considering that the number of universities in Indonesia is also large.

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Duplication of books without the author's permission is also bought and sold via online media. Pirated book sellers on average offer one-fifth the price of original books on the market. They also reduce the value of books to general consumer goods. Sales estimates no longer take into account the content and originality of the book, but only the speed of delivery or the quality of the package. In 2019, IKAPI received copyright infringement notices from 11 publishers. The potential loss due to copyright infringement for just 11 publishers is IDR 116,050 billion. The actual loss figure in this sector is certainly greater considering that IKAPI membership was around 1600 in 2019 and increased to 1900 in April 2021. This does not include publishers who are members of other organizations such as Indonesian Universities. Educational Publishers (APPTI).

Books are copyright objects that are protected by law, so that the book creator as the creator of the book and/or owner of the copyright for his creation has exclusive rights, namely the right to monopolize his creation to protect it. his creation. creations of other parties, such as the right to publish and reproduce them or provide financial benefits to other parties, are often also called economic rights. The creator of a work and/or copyright owner has the right to protect the personal interests of all his creations in matters that harm his personal honor and good name, even though the copyright for the work has actually been granted to another party, that is what is called a moral right. In particular, the Copyright Law regulates the registration of works. Registration of works can be carried out by the applicant, either by the creator or the rights holder.

That there are many pupils and students who have difficulty finding cheap literature. Books in original and pirated versions are very easy to find in the community. Selling pirated versions of books is a clear violation of copyright. Copyright laws are still not properly enforced, as evidenced by the widespread copying of books which are then sold freely.

In order to minimize legal problems that have the potential to arise in duplicating books as an object of copyright, the author will conduct a study on how to limit copyright in duplicating books for educational purposes and how UUHC enforces book duplication without the author's permission. Considering that books are one of the important assets in the world of education which contain copyright. Even though copyright is an individual right, public authorities have certain limitations regarding the availability of information to society as a whole. The next study is how to enforce copyright for duplication of books without the author's permission.

## **2. Materials and Methods**

Legal research is an activity carried out based on a systematic sequence, starting from methods and ways of thinking to examine a legal issue or legal event that arises in society. The method applied in this study is normative legal research, namely studying legal issues using library materials or secondary data. This study does not only examine legal events from the perspective of written law which is related to legal issues, but examines it from all aspects and also explores it from literature. Furthermore, the data in this research uses secondary data, namely data or information obtained from the results of reviewing writings re-lated to the writing topic.

### 3. Results and Discussion

#### 3.1 *Copyright Restrictions on Copying Books for Educational Purposes*

Protection is often connected with law, so the phrase "legal protection" appears. Legal protection is protection for legal subjects expressed in the form of legal instruments, both preventive protection and repressive protection, in written or unwritten form. Legal protection is a concept where law can create justice, order, certainty, benefit and peace. Legal protection is also linked to the concept of the rule of law (rechtsstaat) because the emergence of the concept of the rule of law is inseparable from the state's aim of providing state recognition and protection of human rights.

The emergence of Intellectual Property Rights protection was pioneered by developed countries which had an impact on developing countries including Indonesia. In the era of a world without borders, the function of Intellectual Property Rights in accelerating national development is becoming a central point. All areas of people's lives can be covered by Intellectual Property Rights. Intellectual Property Rights are rights related to material rights, rights that are generated and produced which originate from the intelligence of the human brain, the human ability to think rationally. The results of the brain's work are in the form of immaterial objects, intangible objects. The point of Intellectual Property Rights is the birth of creations in the arts, industry, science or a combination of these three fields.

Regarding copyright, the law works and guarantees exclusive control of the creator and enjoyment of his work, as well as legal assistance from the state if necessary. This shows that legal protection is in the interests of copyright holders, as well as individuals and groups as subjects of rights. However, can copyright, which is called an exclusive right, also be interpreted as the right of the right holder to carry out a monopoly so that he can carry out monopolistic practices to concentrate his economic power? To limit the visibility of individual interests, there are guarantees in the law to safeguard the interests of society. This guarantee is reflected in the intellectual property rights system which develops through a balance of two interests, namely the needs of the copyright owner and the interests of society.

Fair use is a legal doctrine that allows someone to copy without permission from the copyright owner. For example, in America, quoting a few lines of a paragraph, summarizing or quoting news, taking several paragraphs from a news article for educational purposes, and quoting an article for use in court proceedings. In other countries, the concept of fair use has been changed to fair trade, where the exception is limited to the exclusivity of intellectual property rights. Copyright protection of works in the digital era allows private copying or display of protected material with appropriate or reasonable acknowledgment. Fair trade includes copying literary, dramatic, musical or artistic works for educational, research or non-commercial purposes that do not infringe recognized copyright.

The essence of intellectual property rights is material rights, namely property rights. the right to an object that originates from the work of the brain or mind, in which the results of that work are formulated intellectually, so that when something is created it is the work of the brain. or the cause. brain, it is formulated as an intellectual property right. Originality criteria are intended to relate to ownership or copyright claims in cre-

ations/works. Shows that the creation/work was truly created and came from the creator. Originality does not require that there is novelty in the creation, but that the creation/work is truly the result of the creator's thoughts/creations. Does not create copyright for creations/works that imitate other people's creations/works or works that are freely available.

Restrictions aimed at protecting intellectual property owners are obtained through various legal provisions and contractual contents. In developing countries, such as Indonesia, there are several laws that regulate intellectual property rights practices. This law regulates the protection of various types of intellectual property tailored to the subject being protected. Restrictions are a balance in the copyright protection system. This is because, on the one hand, copyright is a property right and a limited monopoly of the creator or right holder which must be protected, on the other hand, there is a public interest in the availability of material protected by copyright. This provision is a balanced standard to ensure the dissemination of information so that the public has the opportunity to access and obtain information created as an intellectual work. Therefore, it can be understood that this is also a manifestation of the value of freedom of expression. This public interest in the distribution of information becomes more pronounced when copyright does not appear to be understood as a means of fair distribution of information resources.

However, this law strictly regulates copying of books by someone. Article 47(a) of the Copyright Law includes, "Every library or archival institution that does not have commercial purposes may make 1 (one) copy of a work or part of a work without the permission of the author or copyright holder by:

Reprographic duplication of writing that has been announced, summarized, or summarized to fulfill someone's request with the following conditions: (a) The library or archival institution guarantees that the copy will only be used for educational or research purposes; (b) The duplication is carried out separately and if it is done repeatedly, the duplication must be an unrelated event; And (c) No license is offered by the Collective Management Institute to libraries or archival institutions with respect to duplicated portions.

Making copies is carried out for maintenance, replacement of necessary copies, or replacement of copies in the event that copies are lost, damaged, or destroyed from permanent collections in libraries or other archival institutions on condition that: (a) It is impossible for a library or archival institution to obtain a copy in reasonable condition; or (b) The making of the copies is done separately or if done repeatedly, the making of the copies must be unrelated events. (c) Making copies is intended for communication or exchange of information between libraries, between archival institutions, as well as between libraries and archival institutions."

The transfer of copyright is based on financial motives, namely the desire to obtain financial gain or commercial gain. The creator surrenders the copyright to receive royalties, while the recipient as the copyright owner seeks to obtain financial benefits from the sale of works based on the copyright. In Indonesia itself, regulations regarding the three-step test are regulated both in terms of copyright restrictions and the test results themselves. The three-step test consists of three stages of testing, viz. Firstly, a work of

literature and art can be permitted to be reproduced under certain conditions or circumstances. Second, provided that the reproduction does not conflict with the usefulness or fair use of the work, and third, provided that it does not harm the author or the interests of the author.

Book Copyright Protection, whether in part or in full, is subject to Indonesian copyright restrictions. Copyright restrictions can be made as long as they do not conflict with morality, religion, public order, morals, national defense and security. The Copyright Act contains limitations on educational copyright. This has been written in Article 44 in conjunction with Article 86 of the Copyright Law, which regulates the use of literary works to include certain sources or the obligation of the copyright owner concerned to give permission to other parties to translate and/or reproduce their work, and can also appoint another party to complete the work. translation/reproduction of the work. This is done in the fields of education and science.

Although copyright is an individual right, there are certain limitations for public authorities regarding access to information on society as a whole. Countries can limit copyright during the protection period so that when a work is published, anyone can use it freely. That actions that do not comply with the provisions of Copyright, namely the act of photocopying science books, are categorized as actions that do not violate Copyright or the provisions of Article 9 paragraph (3) of Law no. 28 of 2018 concerning Copyright, if the purpose of photocopying is for personal purposes (study or study process) and only one copy, in accordance with the provisions stipulated in Article 44 paragraph (1) letter a and Article 46 paragraph (1) of the Law No. 28 of 2018 concerning Copyright. However, this action will constitute a violation of Copyright, if the purpose of photocopying the book is to gain personal profit (many copies and buying and selling for profit). This action has clearly had a detrimental impact on the creator or copyright holder.

The Law on Copyright contains restrictions on copyright related to education. This is written in Article 44 in conjunction with Article 86 of Law no. 28 of 2014 concerning Copyright, which regulates the use of literary works to include certain sources or the obligation of the copyright holder concerned to give permission to another party to translate and/or reproduce his work, or can assign the other party to enforce the copyright. translation/copying of works. This work is carried out in the fields of education and research.

Violation of copyright when making a photocopy of a scientific book does not violate copyright or the provisions of Article 9 paragraph (3) of Law no. 28 of 2018 concerning Copyright, if the reproduction is intended for personal use (study or studying) and only one copy is in accordance with the provisions of Article 44 paragraph (1) letter a and Article 46 paragraph (1) of Law no. 28 of 2018 concerning Copyright. On the other hand, it is a copyright violation if the purpose of reproducing the book is commercial (buying and selling many copies and making a profit) because it is very detrimental to the creator or copyright owner. Copyright restrictions are stated in sentences in accordance with applicable law. This means that parties who do not act as copyright owners can publish or reproduce other people's works, as long as they comply with the restrictions set out in law.

### 3.2 *Enforcement of copyright against duplication of books without the author's permission*

#### a. Subsubsection

The history of development of copyright regulations is very rapid. New problems have emerged in copyright matters, such as the birth of the Internet as a feature of the digital era. In response to these developments, the World Intellectual Property Organization (WIPO) held a conference in Geneva in December 1996 to update standards governing intellectual property rights in the digital environment. A total of 160 countries participate in the WIPO conference. The theme of this conference is the creation, reception, transmission and distribution of works through digital media. Copyright protection in Indonesia experiences ups and downs from time to time. Starting with the application of the principle of Dutch legal concordance, continued with legal "transplantation", as an expression used to describe the dominance of foreign law and the obligation to incorporate international law into copyright regulations in Indonesia.

Copyright as an exclusive right contains moral rights and economic rights. As an exclusive right, the authority to use this right is handed over to the creator, where the creator has the right to appoint parties who can use his creation and even has the right to prohibit/restrict other parties from using this right. If a party uses these rights without the creator's permission, the Rights Holder can file a lawsuit. Copyright holders who are not creators have limited rights, namely only economic rights. There is a difference between moral rights and economic rights, where economic rights have economic value, but moral rights do not contain any economic elements at all.

The aim of legal protection is to realize justice, because the task of law is apart from creating legal certainty, it also provides guarantees and balance, which is not only adaptive and flexible, but also acts as a balancer for the interests of society. townspeople. entrepreneurs and consumers, authorities/government and society. In fact, law is very necessary to provide protection for parties who are socially, economically and politically weak or not yet strong enough to achieve social justice.

Copyright infringement itself occurs when another party uses the copyright owner's exclusive rights without permission. Violations may also be considered if someone else does not comply with the provisions of the law or fair trading rules. In this case, copyright infringement is classified into 3 (three) circumstances, namely: 1) direct infringement; 2) indirect violation; 3) Violations based on authorization. Direct infringement may involve imitation of the original work. Even if only a small part of the original work is copied, if a large part of it constitutes an infringement, in this case the court orders.

If we look closely, the main cause of the increase in book piracy is economic factors. The reason is that economic factors are very important, considering that the price of original books is more expensive than pirated books, so that in terms of the number of books sold, more pirated books are sold than original books. The price of original books is very burdensome for consumers so that people make other efforts to get cheap books, namely piracy. Book. Because the biggest consumers of books are students whose financial capabilities are still limited, selling pirated books is of course very profitable for sellers and buyers. It cannot be denied that the price of books printed by official publishers is much more expensive than the price of pirated books. Involves a fairly long pro-

duction chain and requires low costs from publishers, paper manufacturers, printers, distributors, suppliers to bookstores or agents.

In principle, photocopy business owners must pay royalties to the Collective Management Institute if they carry out activities to reproduce the entire contents of books that have been registered for copyright. If this is not done, of course Law no. 28 of 2018 concerning Copyright can ensnare the coffee photographer. Law no. 28 of 2018 concerning Copyright which has been approved by the People's Representative Council and the government does provide leeway for duplicating books created by someone for non-commercial purposes. For this reason, universities should not worry. Universities are given freedom for library purposes.

That the heaviest sanction for copying copyright without the rights in the Copyright Law is 10 years' imprisonment and a fine of IDR 4 billion. Actions that violate Copyright in the activity of photocopying science books (complying with commercial elements) may be subject to criminal penalties based on Article 113 paragraph (3) and paragraph (4) UUHC. The application of sanctions to parties who do not comply with Copyright provisions or the legal process can take place if there is a complaint/report from the Creator or Copyright holder regarding the losses they have experienced as a result of the violation. If there is no complaint from the relevant party, then the violation/criminal act against Copyright that has occurred cannot yet be processed, because a criminal act against Copyright is a Complaint Offense based on Article 120 of Law no. 28 of 2014 concerning Copyright

Laws on Copyright, apart from regulating substantive provisions, also regulate the form or mechanism for copyright enforcement. The copyright enforcement process is determined by: (1) civil litigation and (2) criminal litigation. Copyright disputes in civil disputes based on Article 95(1) must be resolved through alternative dispute resolution channels, arbitration or court. Apart from that, legal protection is implemented in commercial courts in accordance with Article 95 paragraph (2). However, if it is related to a criminal act, the civil investigator will carry out an investigation mechanism and then convey the complete results of the investigation. state investigator. National Police of the Republic of Indonesia. The criminal case is then brought to the prosecutor's office and court in accordance with procedural law based on the Criminal Procedure Law Number 8 of 1981. However, the important objective of the litigation process in the field of IPR, including copyright, is to stop the steps of parties who violate the provisions of Copyright.

Whereas in Article 95 paragraph 4 of Law Number 28 of 2014 concerning Copyright, it has been emphasized that for copyright violations, the dispute resolution process must first begin with mediation before proceeding to the criminal prosecution stage. Apart from that, mediation has many advantages, including resolving disputes more simply, demands according to needs and interests, as well as quicker resolution and lower costs. Apart from that, good relations between related parties are also still being developed and continuing. If the mediation route is unable to resolve the issue of Copyright infringement, then the creator or holder of copyright or related rights can proceed to the next stage by reporting the criminal act to the police investigator, Civil Servant Investigating

Officer (PPNS) KI at the Regional Office of the Ministry of Law and Human Rights , or PPNS KI at the Directorate of Investigation and Dispute Resolution.

#### 4. Conclusions

The creator or copyright holder has economic rights for commercial purposes as compensation for their hard work in producing the creation. Violation of copyright when making a photocopy of a scientific book does not violate copyright or the provisions of Article 9 paragraph (3) of Law no. 28 of 2018 concerning Copyright, if the reproduction is intended for personal use (study or studying) and only one copy is in accordance with the provisions of Article 44 paragraph (1) letter a and Article 46 paragraph (1) of Law no. 28 of 2018 concerning Copyright. On the other hand, it is a copyright violation if the purpose of reproducing the book is commercial (buying and selling many copies and making a profit) because it is very detrimental to the creator or copyright owner. Copyright restrictions are stated in sentences in accordance with applicable law. This means that those who are not copyright holders can publish or reproduce other people's works, as long as they comply with the restrictions set out in law. Law no. 28 of 2018 concerning Rights Apart from substantive provisions, it also regulates the form or mechanism for copyright enforcement. The copyright enforcement process is determined by: (1) civil litigation and (2) criminal litigation. Copyright disputes in civil disputes based on Article 95 paragraph (1) must be resolved through alternative dispute resolution, arbitration or court. Apart from that, legal protection is implemented in commercial courts in accordance with Article 95 paragraph (2). However, if it is related to a criminal act, civil investigators will carry out an investigation mechanism and then convey the complete results of the investigation. state investigator.

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